

ORDINANCE No. 2006-22-103

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY FOSTER CONSTRUCTION OF SOUTH FLORIDA, INC., FOR A REZONING OF PROPERTY LOCATED AT 400 N.W. 183RD STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM RU-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO RU-5A SEMIPROFESSIONAL OFFICE DISTRICT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Foster Construction of South Florida, Inc. ("Applicant"), has filed an Application with the City of Miami Gardens to approve a rezoning from RU-1 Single Family Residential District to RU-5A Semiprofessional Office District, for property located at 400 N.W. 183rd Street, more particularly described on Exhibit "A" attached hereto ("Property"), and

WHEREAS, a public hearing has been held on this matter, and

WHEREAS, the City's Planning and Zoning staff has made a determination that the application is consistent with the Comprehensive Development Master Plan, and

WHEREAS, the City Council has considered the testimony of the Applicant, if any, and WHEREAS, the City Council also considered the testimony of the City's Developmental Services staff, and the Staff Report attached hereto as Exhibit "B," and

WHEREAS, City staff recommends approval of the Application, and

WHEREAS, the City Council has reviewed the Application and approves the same,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY

OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council for the City of Miami Gardens hereby approves the Application submitted by Foster Construction of South Florida, Inc., for rezoning from RU-1 Single Family Residential District to RU-5A Semiprofessional Office District, for property located at 400 N.W. 183rd Street, as more particularly described on Exhibit "A" attached hereto ("Property")

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE: This Ordinance shall become effective immediately upon passage.

PASSED ON FIRST READING ON THE 1st DAY OF NOVEMBER 2006.

ADOPTED AND PASSED ON SECOND READING BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON THE 6TH DAY OF DECEMBER, 2006.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY O. CREW, CITY MANAGER

MOVED BY: Councilman Campbell
SECONDED BY: Councilman Bratton

VOTE: 5-0

Mayor Shirley Gibson	<u>x</u> (Yes)	<u> </u> (No)	
Vice Mayor Oscar Braynon, II	<u> </u> (Yes)	<u> </u> (No)	Not present
Councilman Melvin L. Bratton	<u>x</u> (Yes)	<u> </u> (No)	
Councilman Aaron Campbell	<u>x</u> (Yes)	<u> </u> (No)	
Councilman André Williams	<u>x</u> (Yes)	<u> </u> (No)	
Councilwoman Sharon Pritchett	<u>x</u> (Yes)	<u> </u> (No)	
Councilwoman Barbara Watson	<u> </u> (Yes)	<u> </u> (No)	Out of town



City of Miami Gardens

1515 NW 167th Street, Bldg 5, Suite 200
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice Mayor Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell
Councilman André Williams
Councilwoman Sharon Pritchett
Councilwoman Barbara Watson

MEMORANDUM

To: The Honorable Mayor and City Council Members
Thru: Danny O. Crew, City Manager
From: Jay Marder, Development Services Director
Date: December 6, 2006
Re: ZPH-2006-27(A): Public Hearing for Foster Construction of South Florida
regarding a Zoning District Boundary Change (Second Reading)

Summary

Applicant:	Foster Construction of South Florida, Inc.
Location:	400 N.W. 183 rd Street
Land Area:	7,950 square feet or ± 0.18 acre
Future Land Use:	Low Density Residential
Existing Zoning:	RU-1 Single Family Residential District
Requested Action:	DISTRICT BOUNDARY CHANGE from RU-1, Single-Family Residential District to RU-5A, Semiprofessional Office District.

City Council Action

At the November 1, 2006 public hearing, the City Council passed on first reading the attached ordinance, which approves the Applicant's request for a district boundary change from RU-1 to RU-5A for the above-captioned property.

Recommendation

This is the same recommendation provided to the City Council at the November 1, 2006 zoning meeting, that is to adopt an ordinance granting the rezoning of the above-described property from RU-1 to RU-5A based on findings contained herein and generally summarized as follows:

- The requested rezoning meets the criteria of the Comprehensive Development Master Plan (CDMP) pertaining to the siting of office uses in areas designated as Low Density Residential. This rezoning does not change policies of the CDMP and is consistent with same.

**8-B) 2ND READING
ORDINANCE
FOSTER CONSTRUCTION
OF SOUTH FLA., INC.
PROPERTY REZONING**

- The requested rezoning is not detrimental to the adjoining developments and is otherwise compatible to the non-residential uses located along Miami Gardens Drive. This rezoning maintains the basic intent and purpose of the Code.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning District	Existing Use	Future Land Use Map
Site	RU-1, Single-Family Residential	Single-Family Dwelling	Low Density Residential
North	RU-1, Single-Family Residential	Single-Family Dwelling	Low Density Residential
South	RU-1, Single-Family Residential	Single-Family Dwelling	Low Density Residential
East	RU-1, Single-Family Residential	Single-Tenant Office	Low Density Residential
West	RU-1, Single-Family Residential	Single-Family Dwelling	Low Density Residential

The properties surrounding the subject property, along both sides of Miami Gardens Drive (N.W. 183rd Street) are zoned RU-1 and have all been developed with single-family residences. In recent years, a number of use variances and zone changes have been applied for and granted along the same block face and across the street from the subject property to accommodate office uses. More single-tenant office uses can be found east of N.W. 3rd Avenue, on the same side of Miami Gardens Drive. A day care is also located approximately one block to the west of the subject property.

Comprehensive Development Master Plan (CDMP)

The subject property is designated Low Density Residential in the Land Use Plan (LUP) Map 2005-2015 of the Future Land Use Element of the Comprehensive Development Master Plan (CDMP). Densities allowed in this category range from a minimum of 2.5 to a maximum of 6.0 units per gross acre. This density category is implemented through the RU-1, RU-2, RU-3, RU-TH, RU-1Z, RU-CH and the EUs zoning districts. Nevertheless, office uses smaller than five acres in size may be approved in a Low Density area provided there are lawfully existing office, business or industrial uses on the same block face. In addition, office uses may be approved along the frontage of major roadways in residential areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of non-residential activities in the vicinity, subject to the following conditions:

1. The residential lot fronts directly on a Major Roadway.
2. The lot or site size does not exceed one (1) acre.
3. The residential area is not zoned, developed, or designated Estate Density Residential, nor does subject frontage face such an Estate Density area.

Pursuant to this provision of the CDMP, office use approvals may only authorize: a) conversion of an existing residence into an office; b) addition of an office use to an existing residence; or, c) the construction of a new office building on lots platted prior to March 25, 1991 in a size of one (1) acre or smaller (Land Use Element, page I-29-30). The rezoning request involves the conversion of an existing single-family residence, which was built in 1960, into an office.

Furthermore, the lot (1) fronts Miami Gardens Drive, which is a six-laned thoroughfare, (2) is adjacent to a lawfully existing office use, and (3) is generally located in area that features many non-residential, office activities, making the current residential use of the property less and less desirable.

In conclusion, the subject site meets the criteria set forth in the CDMP pertaining to the location of office uses in areas designated as Low-Density Residential in the Future Land Use Plan Map. This rezoning therefore (a) does not impact policies of the CDMP and (b) is consistent with same.

Analysis and Zoning Criteria:

Criteria for Rezoning: Section 33-311(A)(8) of the Zoning Code provides authority to the City Council to hear and grant or deny applications for zoning district boundary changes. In evaluating an application for a district boundary change or rezoning, the Council shall take into consideration, among other factors, the extent to which:

- The development permitted by the application, if granted, (1) conforms to the CDMP, (2) is consistent with applicable area or neighborhood studies or plans, and (3) would serve a public benefit warranting the granting of the application at the time it is considered;
- The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, and other necessary public facilities which have been constructed or planned and budgeted for construction;
- The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways;
- The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of the City of Miami Gardens, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate impacts may have a substantial impact on the natural and human environments; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development.

The subject property is a single-family residential lot with frontage on N.W. 183rd Street and N.W. 4th Avenue. This lot covers approximately 7,860 square feet and has been improved with a one-story single-family residence that provides paved parking in the front and the sides. The Applicant, Foster Construction of South Florida, Inc., is seeking to rezone this property from RU-1, Single-Family Residential District to RU-5A, Semiprofessional Office District so as to accommodate office uses. As per submitted plans, the Applicant proposes to demolish the existing pool and CBS utility shed located toward the back of the property so as to provide for parking and more office space. A second story addition is also proposed, which is to set back about forty

(40) feet from the front property line. This addition covers approximately half of the floorplate of the first story and is to be used as a file room. Six (6) paved parking spaces, including one (1) handicap parking space, are provided for the proposed 3,665-square foot office building. Adequate landscaping is provided so as to buffer the proposed office use from the adjacent single-family residence to the south.

Review of the Applicant's rezoning request indicates that the criteria set forth in Section 33-311(A)(8) of the Code are met. As demonstrated above, the requested rezoning to permit the office conversion of the subject property conforms to the goals, objectives and policies of the CDMP. Additionally, this rezoning is compatible with similar zone changes, use variances or office conversions in the immediate vicinity of the site. In fact, three (3) of the five (5) single-family structures located on the same block face have already been granted zoning approvals to accommodate office uses, in 1986, 2002 and 2005 respectively. Given the changing character of the neighborhood, the requested rezoning (1) is not detrimental to the neighborhood and (2) does not conflict with the basic intent and purpose of the zoning, land use and subdivision regulations.

Based on these findings, the Applicant's request to rezone this property from RU-1, Single-Family Residential District to RU-5A, Semiprofessional Office District is recommended for approval.

Non-Use Variances. Several non-use variances will be considered by resolution at the second reading of the rezoning ordinance, subject to approval by the Mayor and City Council.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process.

Water and Sewer: The proposed office development is already connected to central water and lateral sewer services through the Miami-Dade County's Water and Sewer Department.

Drainage/Water Management: Per code requirements, all stormwater runoff must be retained on site utilizing properly designed infiltration or seepage type system; the first half inch of runoff shall be treated before excess runoff is discharged in the aquifer should the impervious area of the site be greater than 40%.

Traffic Circulation: Access to the site is provided from N.W. 5th Avenue and from Miami Gardens Drive (N.W. 183rd Street). Based on the "Guidelines for Estimating Trip Generation" of the *Trip Generation Handbook, Seventh Edition* by the Institute of Transportation Engineering, the proposed 3,665-square feet office development will generate a total of six (6) Daily Peak Hour Vehicle Trips. Miami Gardens Drive in proximity of the site is a six-laned roadway that operates at a Level of Service (LOS) D, with more than 3,900 trips available. Consequently, the accrued number of trips that will be generated from this single-tenant office will have a de minimis impact on existing traffic conditions of said thoroughfare.

Public Notification/Comments

In accordance with the Zoning Code, notification of the applicant's requests was mailed to property owners within five-hundred (500) feet of the subject site to provide them an opportunity to comment on or object the application if they so choose. No comments were received from any of the property owners within that radius. (See Mailed Notice Radius Map, attached).

This recommendation to approve this application does not constitute a final development order; one or more concurrency determinations will subsequently be required.

Attachments:

- Public Hearing Checklist
- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Affidavit
- Mailed Notice Radius Map
- Proposed Development Plans
- Miami Gardens Proposed Ordinance